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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,223	11/01/2000	Magnus Bolmsjo	2831.01US01	2658

7590

11/20/2002

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EXAMINER

GHAFOORIAN, ROZ

ART UNIT PAPER NUMBER

3763

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/704,223

Applicant(s)

BOLMSJO ET AL.

Examiner

Roz Ghafoorian

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Since in the last office action paper No.7 the applicant did not elect claims 9-10, and did not traverse the election claims 9-10 are still not considered due to election by original presentation.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant has recited " the second end of the body across the inner space of the body" on lines 21-22. Its unclear what the applicant is trying to imply.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 13, 16-25, 28-32, 33-35 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S Patent No.5176664 to Weisman.

Weisman discloses female voiding assist device and method. This device is in a tube-shaped (spiral or spherical) having a spring-like characteristic, the body 20 define an inner space which extends along the elongated body between a proximal end (a second end) and a distal end (a first end), the body also defining at least one opening 14 from an exterior of the body 20 into inner space; a first end piece 18 connected at the distal end of the body across the inner space of the body, the first end piece 18 having a curved exterior end configuration; a second end pieces 28 connected at the proximal end of the body, a thread having sufficient length to extend from the second end piece 28 through the urinary canal when the body is in the normally curved shape in the bladder, the thread 24 connected at one end to the second end piece 28. The second end piece 28 includes at lease one opening extending from the inner space thought the second end piece; the first end rice defines a though opening extending from the exterior of the first end piece though the first end piece and into the inner space; the curved exterior end configuration of the first end piece 18 includes a generally spherically shaped portion; the body defines a plurality of openings 14 formed though the tube for the inner space at a plurality of spaced apart locations along the length of the body; the body comprises flexible material which inherently creates the spring-like characteristic; a stop 26 attaches to the other end of the thread at a position which remains outside of the exterior opening of the urinary canal. The pliability characteristic of the second end piece 28 defines a relatively greater elasticity compared to the body.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No.5176664 to Weisman ,and further in view of US Patent No.4790870 to Pugh, Jr. et al.

Weisman teaches the invention except for the marker on the thread. Pugh teaches markers on the body of the tube.

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Weisman's apparatus to add a marker to the thread 24, because markers are very common in the art and they allow the surgeon to locate, insertion and removal of the tube or thread inside the patients body.

***Allowable Subject Matter***

5. Claims 26-27 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments filed 9-12-02 have been fully considered but they are not persuasive.

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a. The new claims added still read on US Patent No.5176664 to Weisman as explained above.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG  
November 14, 2002



**MICHAEL J. HAYES**  
**PRIMARY EXAMINER**